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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/449,912	12/02/1999	NICK P. DIVITTORIO	202232	6873

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LEYDIG VOIT & MAYER LTD  
TWO PRUDENTIAL PLAZA SUITE 4900  
180 NORTH STETSON  
CHICAGO, IL 60601-6780

EXAMINER

TANG, KENNETH

ART UNIT	PAPER NUMBER
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2195

DATE MAILED: 10/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/449,912	<b>Applicant(s)</b> DIVITTORIO, NICK P.	
	<b>Examiner</b> Kenneth Tang	<b>Art Unit</b> 2195	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 June 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This action is in response to the Pre-Appeal Request Conference on 6/12/06. Prosecution has been reopened and new grounds of rejections have been made.
2. Claims 1-26 are presented for examination.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-7, 13-19, and 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior art in the Specification (hereinafter AAPA) in view of Sinibaldi et al. (hereinafter Sinibaldi) (US 6,549,945 B1).**

4. As to claim 1, AAPA teaches a control processor for executing a set of control tasks defining interactive control of an industrial process (*page 3, lines 1-2*), the control processor comprising:

an embedded control task comprising a program including a set of output values corresponding to process setpoints (*page 2, lines 5-23*);

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a set of control blocks including regulatory control blocks having output values that are transmitted by the control processors to field devices coupled to the industrial process (*page 2, lines 5-23*).

AAPA is silent in teaching a multi-variable linear program and having a high and low execution priority status wherein there is execution at a lower execution priority. However, Sinibaldi teaches having a matrix which represents a multi-variable linear program, wherein the entries of the matrix are setpoints (col. 18, lines 25-28, Fig. 14). In addition, Sinibaldi teaches having high priority tasks such as foreground tasks as well as lower priority (non critical) tasks such as background tasks. Sinibaldi teaches executing in the lower priority by using background tasks (col. 17, lines 45-55). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the features of a matrix (multi-variable linear model) and priority execution because it would increase flexibility (col. 1, lines 50-55).

5. As to claims 2, AAPA teaches wherein the set of control blocks comprise supervisory control blocks (*page 2, lines 5-23*).

6. As to claim 3, AAPA teaches wherein the supervisory control blocks include a multivariable control block including computer instructions facilitating communication between the control processor and a workstation (*see rejection of claims 1 and 2*). In addition, Mann teaches downloading data between the control processor and device (*col. 13, lines 16-17*).

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7. As to claim 4, AAPA teaches wherein the multivariable control block includes a process control model to be implemented by the embedded control task (*see rejection of claim 1*).

Sinibaldi teaches downloading program instruction data between the control processor and device (*col. 19, lines 4-10, see Abstract*).

8. As to claims 5, AAPA in view of Iino teaches wherein the supervisory control blocks include at least one multivariable loop block, and further comprising the step of execution of instructions and data associated with the at least one multivariable loop block (*see rejections of claims 1 and 2*). AAPA teaches providing in put value for a regulatory control block via a user interface (*page 3, lines 1-2*).

9. As to claim 6, AAPA teaches wherein regulatory control block is a PID block (*page 2, lines 5-23*).

10. As to claims 7 AAPA is silent in teaching wherein the regulatory control block is a ratio block. However, it is well known in the art that control blocks can take on ratio values. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the feature of the control block being a ratio block because this increases the functionality by being able to use ratio values as well as non-ratio values.

11. As to claims 13-19, they are rejected for the same reasons as stated in the rejections of claims 1-7, respectively.

12. As to claims 25, it is rejected for the same reasons as stated in the rejection of claim 1.

13. As to claims 26, it is rejected for the same reasons as stated in the rejection of claim 1. In addition, Sinibaldi teaches temporarily halting a background routine so that a foreground routine can be executed (col. 17, lines 45-55).

**14. Claims 8-12 and 20-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior art in the Specification (hereinafter AAPA) in view of Sinibaldi et al. (hereinafter Sinibaldi) (US 6,549,945 B1), and further in view of Messih et al. (hereinafter Messih) (US 5,526,794).**

15. As to claims 8-12, AAPA and Sinibaldi teach wherein the set of control blocks includes a supervisory control block including a sequence of instructions/tasks. They fail to explicitly teach a re-commencing cycle of the embedded task in accordance with a value specified by a repetition cycle parameter having a period, wherein the period specified by the repetition cycle parameter exceeds a period specified by the block processing cycle parameter. However, Messih teaches background and foreground execution in a controller wherein there is a time period (when period exceeds the period of completion of the foreground routine) before a cycle is restarted. It would have been obvious to one of ordinary skill in the art at the time the invention was made to

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combine Messiah to the existing system because this allows for optimization of speed (increasing) and the necessary amount of time (decreasing) (*col. 4, lines 7-19*).

16. As to claims 20-24, they are rejected for the same reasons as stated in the rejections of claims 8-12, respectively.

### ***Response to Arguments***

17. Applicant's arguments have been fully considered but are moot in view of the new grounds of rejections.

### ***Conclusion***

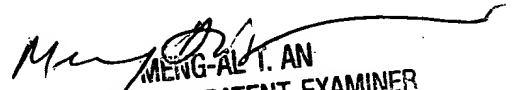
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth Tang whose telephone number is (571) 272-3772. The examiner can normally be reached on 8:30AM - 6:00PM, Every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kt  
9/29/06

  
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